



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB3657

Introduced 2/28/2007, by Rep. Robert F. Flider

SYNOPSIS AS INTRODUCED:

220 ILCS 5/8-102	from Ch. 111 2/3, par. 8-102
220 ILCS 5/8-401	from Ch. 111 2/3, par. 8-401
220 ILCS 5/9-213	from Ch. 111 2/3, par. 9-213
220 ILCS 5/9-219 new	

Amends the Public Utilities Act. Provides that an audit or investigation may examine the reasonableness, prudence, or efficiency of any aspect of the utility's operations, costs, management, decisions, or functions that may affect the adequacy, safety, efficiency, or reliability of utility service or the reasonableness or prudence of the costs underlying rates or charges including power procurement costs for utility service. Provides that every 3 years each electric utility that provides electric services shall file with the Illinois Commerce Commission an energy plan for its service territory consistent with certain planning objectives and requirements. Provides that the cost of new electric utility generating plants and significant additions to electric utility generating plants shall not be included in the rate base of any utility unless such cost is reasonable and prudently incurred. Provides that the Commission shall authorize a decrease of rates and charges based upon changes in the cost of purchased power if it determines that a utility's power procurement costs were not the lowest cost possible. Effective immediately.

LRB095 10191 MJR 32362 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Public Utilities Act is amended by changing
5 Sections 8-102, 8-401, and 9-213 and by adding Section 9-219 as
6 follows:

7 (220 ILCS 5/8-102) (from Ch. 111 2/3, par. 8-102)

8 Sec. 8-102. Audit or investigation. The Commission is
9 authorized to conduct or order a management audit or
10 investigation of any public utility or part thereof. The audit
11 or investigation may examine the reasonableness, prudence, or
12 efficiency of any aspect of the utility's operations, costs,
13 management, decisions or functions that may affect the
14 adequacy, safety, efficiency or reliability of utility service
15 or the reasonableness or prudence of the costs underlying rates
16 or charges for utility service, including power procurement
17 costs. The Commission may conduct or order a management audit
18 or investigation only when it has reasonable grounds to believe
19 that the audit or investigation is necessary to assure that the
20 utility is providing adequate, efficient, reliable, safe, and
21 least-cost service and charging only just and reasonable rates
22 therefor, or that the audit or investigation is likely to be
23 cost-beneficial in enhancing the quality of service or the

1 reasonableness of rates therefor. The Commission shall, before
2 initiating any such audit or investigation, issue an order
3 describing the grounds for the audit or investigation and the
4 appropriate scope and nature of the audit or investigation. The
5 scope and nature of any such audit or investigation shall be
6 reasonably related to the grounds relied upon by the Commission
7 in its order.

8 Any audit or investigation authorized pursuant to this
9 Section may be conducted by the Commission, or if the
10 Commission is unable to adequately perform the audit or
11 investigation, the Commission may arrange for it to be
12 conducted by persons independent of the utility and selected by
13 the Commission. The cost of an independent audit shall be borne
14 initially by the utility, but shall be recovered as an expense
15 through normal ratemaking procedures. Any audit or
16 investigation shall be conducted in accordance with generally
17 accepted auditing standards.

18 (Source: P.A. 90-655, eff. 7-30-98.)

19 (220 ILCS 5/8-401) (from Ch. 111 2/3, par. 8-401)

20 Sec. 8-401. (a) Every public utility subject to this Act
21 shall provide service and facilities which are in all respects
22 adequate, efficient, reliable and environmentally safe and
23 which, consistent with these obligations, constitute the
24 least-cost means of meeting the utility's service obligations.

25 (b) Every 3 years, each electric utility shall file with

1 the Commission an energy plan for its service territory
2 consistent with the planning objectives and requirements
3 described in this Article. The Commission shall review each
4 such plan and provide testimony before the Commission in the
5 hearings required by this Article as to the adequacy of each
6 plan in satisfying the objectives of this Article and this Act.
7 Subsequent to the effective date of this amendatory Act of the
8 95th General Assembly, the next such utility electric plans
9 shall be filed on July 1, 2008.

10 (c) In preparing the plans required under subsection (b) of
11 this Section each electric utility shall include the following:

12 (1) Year-by-year, 20-year demand projections for each
13 electric utility for services and projected customers by
14 major service classifications of the electric utility, as
15 well as the basis for the projections, including an
16 examination of possible alternative levels of demand and
17 discussions of the forecasting methodologies and input
18 variables used in making the forecasts. In particular the
19 actual and forecasted impact of conservation, renewable
20 resources, cogeneration, and other improvements in energy
21 efficiency shall be identified and analyzed.

22 (2) Year-by-year projections of all available sources
23 of supply for each of the next 20 years for each electric
24 utility, including, but not limited to:

25 (A) available electric generating capacity,
26 indicating planned additions, retirements, purchases,

1 substantial planned outages, deratings, and all other
2 expected changes in levels of generating and
3 production capacity;

4 (B) the projected utilization of cogeneration, and
5 nonconventional technologies relying on renewable
6 resources, identifying specifically any such capacity
7 expected to be available for purchase by the utility;
8 and

9 (C) a discussion of all existing and proposed
10 programs and policies to promote and ensure the full
11 utilization of all practical and economical energy
12 conservation;

13 (3) A demonstration that the proposed plan represents
14 the least-cost means of satisfying energy service needs
15 consistent with the objective of this Section, including:

16 (A) a discussion of how the utility has determined
17 the appropriate level of reliability to be used in its
18 forecasts and plans, and how this determination has
19 influenced its forecasts and plans;

20 (B) a demonstration that the plan fully considers
21 and utilizes all available, practical, and economical
22 conservation, renewable resources, cogeneration, and
23 improvements in energy efficiency;

24 (C) with respect to the planned construction of any
25 new generation or production facilities:

26 (i) a discussion of proposed and alternative

1 sites and of the likely or possible environmental
2 consequences of the construction and operation of
3 planned facilities;

4 (ii) a discussion of the types of fuel and
5 methods of generation to be employed at planned
6 facilities;

7 (iii) a discussion of the operating and
8 capital costs of planned facilities and the
9 expected financial impacts and requirements of
10 construction and operation; and

11 (iv) a discussion of the expected impact of any
12 planned facility on system reserve margins and
13 rates at the time of proposed inclusion into rate
14 base; and

15 (D) a demonstration that the utility's rate design
16 accurately reflects the long-term cost of service for
17 each customer class or group and provides full and
18 adequate incentives for each customer class or group to
19 conserve energy.

20 The Commission shall determine the precise form, scope, and
21 contents of such energy plans consistent with the requirements
22 of this paragraph and shall have the power to require the
23 provision of such additional data, information, and analysis as
24 necessary to effectuate the planning objectives of this
25 Section.

26 (Source: P.A. 84-617.)

1 (220 ILCS 5/9-213) (from Ch. 111 2/3, par. 9-213)

2 Sec. 9-213. The cost of new electric utility generating
3 plants and significant additions to electric utility
4 generating plants shall not be included in the rate base of any
5 utility unless such cost is reasonable and prudently incurred.
6 Prior to including the cost of plants or additions to utility
7 plants in the rate base, the Commission shall conduct an audit
8 of such costs in order to ascertain whether the cost associated
9 with the new generating plant or the addition to electric
10 utility generating plant is reasonable. However, the
11 Commission may, for good cause shown in individual cases, waive
12 the auditing requirement for any generating facility which
13 meets all of the following requirements:

14 (1) the facility is wholly owned and operated by a
15 public utility, as otherwise defined in this Act, which
16 serves less than 20,000 electric customers within the State
17 of Illinois, and

18 (2) the facility is designed to generate less than 50
19 megawatts of electricity, and

20 (3) the facility is located outside of the State of
21 Illinois.

22 If the Commission is unable to conduct such an audit, the
23 Commission shall arrange for it to be conducted by persons
24 independent of the utility and selected by the Commission. The
25 cost of such an independent audit shall be borne initially by

1 the utility, but shall be recovered as an expense through
2 normal ratemaking procedures. Any such audits shall be
3 conducted in accordance with generally accepted auditing
4 standards and shall include but not be limited to costs
5 associated with materials, labor, equipment, professional
6 services and other direct and indirect costs.

7 "Significant additions to the electric utility generating
8 plant", as used in this Section, shall not include a public
9 utility's investment in pollution control devices for the
10 control of sulfur dioxide emissions. Nothing in this Section is
11 intended to affect the provisions of Section 9-214 of this Act.

12 "Reasonable", as used in this Section, means that a
13 utility's decisions, construction, and supervision of
14 construction, underlying the costs of new electric utility
15 generating plants and significant additions to electric
16 utility generating plants resulted in efficient, economical
17 and timely construction. In determining the reasonableness of
18 plant costs, the Commission shall consider the knowledge and
19 circumstances prevailing at the time of each relevant utility
20 decision or action.

21 Nothing in this Section shall prevent or limit the
22 Commission from either entering into and conducting joint
23 audits concerning such electric generating plants with the
24 regulatory authority of another state, or from relying on
25 audits conducted by the regulatory authority of another state
26 in lieu of an audit as required by this Section.

1 (Source: P.A. 87-435.)

2 (220 ILCS 5/9-219 new)

3 Sec. 9-219. Rates and least cost power procurement
4 practices. Notwithstanding the provisions of Section 9-201,
5 the Commission shall authorize a decrease of rates and charges
6 based upon changes in the cost of purchased power if it
7 determines that a utility's power procurement costs were not
8 the lowest cost possible. Annually, the Commission shall
9 initiate public hearings to determine whether a utility's
10 purchased power is prudent. In each proceeding, the burden of
11 proof shall be upon the utility to establish prudence of it
12 purchased power costs. The Commission shall issue its final
13 order in each such annual proceeding for an electric utility by
14 December 31 of that year. The Commission shall adopt rules
15 specifying least cost power procurement practices.

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.